

**LIBERTY TOWNSHIP TRUSTEE
RECORD OF PROCEEDINGS
OCTOBER 6, 2008**

The audio recording, resolutions passed, and any attachments constitutes an accurate record of the Liberty Township Trustee Proceedings at the above dated meeting as determined by the Fiscal Officer. The following summary is provided as an overview of the meeting and a road map to the audio record. Copies of this record are available by request at the Township Government Office, 10104 Brewster Lane, Suite 125, Powell, Ohio.

PROCEEDINGS SUMMARY:

The Trustees of Liberty Township met in regular session Monday, October 6, 2008, at 7:30 p.m. at the Liberty Township Complex. Trustee Sybert and Mann were present, Trustee Guzzo was absent. See attached sign-in sheets for others in attendance.

Chairperson Curtis Sybert called the meeting to order with the Pledge of Allegiance.

MOTION: 08-1006-01 Accepting Then and Now Purchase Orders

Mr. Sybert moved to approve Motion 08-1006-01 accepting Then and Now Purchase Orders as presented and Mr. Mann seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Pay Bills

Mr. Sybert moved to approve the payment of the bills and Mr. Mann seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

Fiscal Officer Finance Report

Fiscal Officer Mark Gerber presented an Accomplishments and Financial Summary Report January 1 – September 30, 2008; the report is attached hereto and will become a permanent part of this record. The Board Members commended Mr. Gerber on his hard work and funds that he has saved or recovered for the Township.

Administrative Review 08-07 Applicant Pat Swanson

Liberty Township Zoning Inspector Holly Foust distributed a copy of the Application Admin. Review 08-07, Applicant Pat Swanson, PK Builders requesting to place grass in an area of behind the home and get Zoning approval at a culvert site of approximately 24 feet. This is an encroachment into a designated “No Build” zone at 1917 Woodlands Place in Loch Lomond, which was rezoned in 1979 to Planned Residence District with designated protected areas, and the most protected of those were the ravine areas. This lot is located at the end of a private drive Woodlands Place Drive with the “No Build” zone running through the backs of all of the lots. The Zoning Permit for the house was issued last year and the “No Build” zone was explained at that time and

again when the deck was built. Further, the Zoning Department requires orange construction fence to protect the area and photographs are taken to verify its placement prior to a permit being issued. The Homeowners Association letter approving the house, location, proposed landscaping etc., was submitted by the builder May 24, 2007; in that letter is detailed information regarding the preservation of the trees in Loch Lomond. She advised in July 2008 the Zoning Department received a complaint from a neighbor regarding this lot and that the "No Build" zone had been cleared. She presented approximately 30 photos the neighbors had taken and sent the Zoning Department. Ms. Foust discussed the issue with the Applicant and he said he did not remove any trees; he did say however that he installed a drain pipe in the "No Build" zone which is not allowed according to the 1979 Development Plan Deed Restrictions. She recommended that the Applicant have the surface drainage changes he made evaluated which he did, and it was determined the changes would function, but he should not make any more. She advised that the Applicant explained he had a potential buyer for the site, but they wanted a flat grass area in the back so their children could play in it. The neighbor had his property surveyed identifying that some of the clearing indeed encroached onto his lot in the "No Build" zone. Ms. Foust believed that Mr. Swanson had presented the Board with an agreement reached between himself and the neighbor.

Applicant Pat Swanson explained the encroachment into the neighbor's property was approximately 3 feet by 10 feet and was dirt which was pushed onto his property; he did inform the neighbor that he would take care of it and as stated in the signed agreement he only took foliage out. He explained that he only removed dead or diseased trees and they had to go past the fence area to tie into the sewer which was located in the "No Build" zone approximately 60 feet from the house and 20 feet past the creek bed. Ms. Foust said she did not remember a conversation that the sewer was in the "No Build" zone; she noted the deed restrictions say they can go in there to work on the storm sewers etc., but said this was the first time she heard this. Mr. Swanson explained the buyer wanted some space in the backyard, and Mr. Swanson told him he could put grass there. He said that one person from the homeowner association was upset and he is trying to work with him.

Glen & Lucia Apseloff, 1948 Loch Lomond Drive, neighbors behind the Applicant said they bought their house because it was a wooded ravine lot and advertised that way. Mr. Apseloff explained they had lived at a similar ravine lot prior to this and would have stayed but they lost it to eminent domain. Mr. Apseloff explained the agreement he had with the Applicant was to try and correct the damage that was done specifically to their property in the "No Build" zone. They hired a surveyor to show dirt had been moved, the grade is different, and now the area that used to be a ravine with a stream down the middle is flat dirt. Ms. Apseloff advised that live trees were removed and another neighbor would confirm that. Mr. Apseloff presented a photo showing clumps of 25 to 30 foot high trees that were all over the ravine, and this part of the ravine was no different. He noted that the newly installed drain pipe has literally taken the creek away in addition to the trees and shrubs and has disrupted the wildlife. He said if a backyard is installed and children are playing they will not have wildlife. Basically what they want is to have nature when they look out at their property; they would like to see the area restored with fast growing trees and native plants or shrubs.

Mr. Sybert commented that it sounded like the builder was willing to work with the neighbors to get some of those trees in, but the grade according to the County is fine as long as it is not interfered with any further. He understands where the neighbors are coming from, but if the Trustees force them to restore it the builder will lose a buyer, and this was a very difficult market. He also added that the builder does have a right to sell it.

Kathleen Binek, 1972 Loch Lomond Drive, stated she lives catty-corner from this lot and while she appreciates the dilemma of the housing market, these homes were marketed and sold as ravine lots and why people purchased them. She said there is a significant difference in home prices across the street because they were not ravine lots.

Ted Madis, the prospective homebuyer, said they want the neighbors to be happy and agreed that the neighbor's lot should be restored. He explained they had two small children and currently live in a home that backs up to a golf course and wanted a home with a yard. They looked for approximately two months and found this one and worked with their realtor and builder regarding eliminating the brush and/or weeds to install a yard for their kids to play in. He said they did not see a creek at the time. Mr. Madis advised they did not have a contractual contingency; they did not know there were any restrictions regarding the grade and yard being installed that was done before signing the contract, but it was the deciding factor and the decision to buy this house. He said if the property is restored to the way it was then they will not buy the house. He recommended that before the Trustees make a decision they should visit the site because he believes it still maintains the look of the ravine, it is flat with dirt and gravel at this time but will have grass and be manicured.

Mr. Swanson added that he had the engineer with him and they taped off the lots and they were all running way past 150 feet into the "No Build" zone and to the creek and Mr. Apseoff's house cannot be seen due to all the trees.

A lengthy discussion ensued involving the Trustees, neighbors, prospective buyers and builder; it was determined that the parties get together and try to come to some agreement and return with an agreement at the next Board of Trustees meeting which would be Monday, October 20th @ 8:00 p.m.

MOTION: Administrative Review 08-07 - Table

Mr. Mann moved to table this request to be heard at the next Trustees Meeting Monday, October 20th at 8:00 p.m. Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: LTZ 05-03 Schedule Final Hearing

Mr. Sybert moved to hear Application LTZ #05-03 Applicant Ken Manning on behalf of Loch Lomond at the next scheduled Trustees Meeting on Monday, October 20th at 8:00 p.m. Mr. Mann seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Authorize Zoning Inspector to sign final mylar – Algoma Farms

Mr. Sybert moved to approve and authorize the Zoning Inspector sign the final mylar for Algoma Farms. Mr. Mann seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Authorize Zoning Inspector to sign final mylar – Market at Big Bear

Mr. Sybert moved to approve and authorize the Zoning Inspector sign the final mylar for the Market at Big Bear. Mr. Mann seconded and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

CITIZEN COMMENT:

Jim Cirigilano, 10263 Churchill Drive, said he was here this evening to commend the Board, the Township, and especially the road department for fixing the ditch on his property. He said the Road Department did a fantastic job and wanted to say thank you, as well as thank them for the wonderful cleanup they did after the wind storm.

Fire Safety/Prevention Week Update

Several hundred people attended the 2008 Open House Fire Prevention Event which was held on Sunday, October 5th at Station #322. Along with fire safety demonstrations and activities there was a sign dedication renaming Station #322 to the Robert E. Cape Station, for his over 30 years of service to this community. The event also celebrated the 200 year anniversary of the Township, with arrangements made by M Michela.

RESOLUTION: 08-1006-01 Reallocation of Appropriated Funds

Mr. Mann moved to approve Resolution 08-1006-01 as presented and Mr. Sybert seconded and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

RESOLUTION: 08-1006-02 Waddel & Reed as Authorized 457(b) for Employees

Mr. Sybert moved to approve Resolution 08-1006-02 as presented and Mr. Mann seconded and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

RESOLUTION: 08-1006-03 Preservation Parks Levy – TABLED

Mr. Mann moved to table Resolution 08-1006-03 and Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

RESOLUTION: 08-1006-04 Accepting sole bid for Fire Dept 1988 Sutphen Engine

Mr. Mann moved to approve Resolution 08-1006-04 as presented and Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

RESOLUTION: 08-1006-05 Authorize Purchase of New Software, etc

Mr. Mann moved to approve Resolution 08-1006-05 as presented and Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Wedgewood Pub Liquor License Transfer

Mr. Sybert moved to approve the transfer of the liquor license without a hearing and Mr. Mann seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Mark Pi's TREX Liquor License Support Letter

Mr. Mann made a motion to approve Mr. Anderson write a letter of support regarding this matter and Mr. Sybert seconded and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Approval of July 21, 2008 Minutes

Mr. Mann made a motion to amend the July 21, 2008 meeting minutes as follows: Page 4 under Motion 08-01 Kroger Final Approval, 2nd to last paragraph; it currently reads, "Mr. Mann asked how they needed to proceed with the walk-up pharmacy issue. Ms. Foust said the Trustees need to allow the walk-up pharmacy to remain and approve the new drive-thru pharmacy". It is revised to read "Mr. Mann asked how they needed to proceed with the walk-up pharmacy issue. Ms. Foust advised that the Trustees need to vote on whether to allow the walk-up pharmacy to remain and approve the new drive thru pharmacy. Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Approval of July 21, 2008 Minutes as amended

Mr. Mann moved to approve the July 21, 2008 minutes with the changes as amended and Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Approval of August 15, 2008 Minutes

Mr. Sybert moved to approve August 15, 2008 meeting minutes as presented and Mr. Mann seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

TABLED – Approval August 6, 2008 Minutes - due to lack of quorum

TABLED - Approval of August 18, 2008 Minutes - add citizen comment

MOTION: Approval of September 2, 2008 Minutes

Mr. Sybert moved to approve September 2, 2008 meeting minutes as presented and Mr. Mann seconded and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Amend September 15, 2008 Minutes

Mr. Mann moved to amend September 15, 2008 meeting minutes as follows: Under Citizen Comment, under Robin Owens before the last sentence insert the following: "It was determined that while the Applicant initially took the sign down. The sign was put back up even after the Applicant was advised a permit had not been issued."

Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Amend September 15, 2008 Minutes

Mr. Mann moved to amend the September 15, 2008 Minutes as follows: Under Liberty Township Bike Path Page 2 after the word material insert the following sentence: “Mr. Mann advised that his issue is not whether concrete or asphalt is better, his issue is democracy. The pros and cons of each were discussed in 2006, and the majority voted 2-1 to go with roller compacted concrete.” Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

MOTION: Approve September 15, 2008 Meeting as Amended

Mr. Mann moved to approve the September 15, 2008 Minutes as amended. Mr. Sybert seconded the motion and the roll call vote: Mr. Mann – yes, Mr. Sybert – yes. The motion passed with a 2-yes and 0-no vote.

ADJOURNED:

There being no further business Chairperson Sybert adjourned the meeting at 10:02 p.m.


Mark S. Gerber, Fiscal Officer